

EXHIBIT 6

Robert Hazlewood

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5/22/2020

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 CIVIL ACTION NO. 1:20-civ-03315 (ER)
4 -----x
5 CESAR FERNANDEZ-RODRIGUEZ, ROBER GALVEZ-CHIMBO,
6 SHARON HATCHER, JONATHAN MEDINA, and JAMES
7 WOODSON, individually and on behalf of all others
8 similarly situated,

9 Petitioners,
10 v.

11 MARTI LICON-VITALE, in her official capacity as
12 Warden of the Metropolitan Correctional Center,
13 Respondent.

14 -----x

15 Remote Deposition
16 May 22, 2020
17 10:54 a.m.

18
19 DEPOSITION VIA VIDEOCONFERENCE OF

20 ROBERT HAZLEWOOD

21

22

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1 Q. Mr. Hazlewood, if an inmate fell ill
2 with COVID-19 symptoms at the MCC, what could they
3 do to report it?

4 A. Tell any staff member.

5 Q. Could they do it by paper or what is
6 referred to as cop-out, I understand?

7 A. They could.

8 Q. Do you know if any medical request
9 cop-outs were received while you were acting
10 warden?

11 A. I don't specifically recall that.

12 Q. Do you know whether those medical
13 cop-outs would have been retained?

14 A. Ordinarily a medical cop-out would
15 be responded to if it's in paper and returned to
16 the inmate. If it was done electronically via
17 e-mail, then there would be a record of it there.

18 Q. Are you aware that medical cop-outs
19 at the MCC were being shredded until earlier this
20 month?

21 MR. OESTERICHER: Objection.

22 A. No, I'm not aware of that.

23 Q. This is your first time hearing
24 about that?

25 A. Yes.

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1 **leave while you were acting warden?**

2 A. Not to my knowledge.

3 Q. **Approximately how many inmates had**
4 **COVID-19 symptoms while you were the acting**
5 **warden?**

6 MR. OESTERICHER: Objection.

7 A. I don't recall the exact number. I
8 believe that by the time I left, the number of
9 symptomatic inmates had dropped to nine total.

10 Q. **From a high of what?**

11 A. I can't be sure of the number, but I
12 believe it was 19, a high of 19 when I arrived,
13 and it dropped to approximately nine by the time I
14 departed.

15 Q. **And what is your basis for those**
16 **numbers?**

17 A. The number of inmates that were
18 housed in Unit 3, which was our isolation unit.

19 Q. **We talked about positive inmates and**
20 **contact tracing. Was there any contact tracing**
21 **with respect to symptomatic inmates who had not**
22 **tested positive?**

23 A. I don't recall.

24 Q. **So you are not aware of any such**
25 **contact tracing?**

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1 MR. OESTERICHER: Objection.

2 A. It may have been happening, but I
3 cannot say for sure if that was happening.

4 Q. **So as the acting warden of the**
5 **facility, you didn't know one way or the other?**

6 A. I can't say with certainty now
7 whether there was contact tracing done for
8 symptomatic inmates that weren't verified with a
9 test.

10 Q. **Did the MCC alert staff who had come**
11 **into close contact with a symptomatic inmate?**

12 A. Yes. It was reported to me that the
13 contact tracing that was done -- excuse me, repeat
14 that question again.

15 Q. **If you had an inmate who had not**
16 **tested positive but was otherwise symptomatic and**
17 **they had come into close contact with staff, would**
18 **you alert the staff to that fact?**

19 A. I don't recall specifically if that
20 was done.

21 Q. **When you arrived at the facility,**
22 **Warden, 12 staff had already tested positive; is**
23 **that correct?**

24 A. I believe that was the number, yes.

25 Q. **And by the time you returned to FCI**

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1 **symptomatic inmates should be immediately**
2 **isolated?**

3 A. Yes. That's what we did.

4 Q. **That's what you did. The MCC**
5 **followed that guidance?**

6 A. So when inmates were identified as
7 symptomatic, they were isolated and they remained
8 in isolation, to my recollection, up to 14 days
9 post resolution of symptoms.

10 Q. **But they were not tested before they**
11 **reentered their unit?**

12 MR. OESTERICHER: Objection.

13 A. Not during my time there.

14 Q. **Were any inmates isolated during**
15 **your time as acting warden?**

16 A. Yes.

17 Q. **Were any inmates isolated in**
18 **solitary confinement or the special housing unit?**

19 A. Yes.

20 Q. **Is solitary confinement normally**
21 **used for punishment?**

22 MR. OESTERICHER: Objection.

23 A. It can be.

24 Q. **Do you think the prospect of being**
25 **placed in solitary confinement or the SHU would**

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1 Q. Right. So my question was, while
2 **you were acting warden, you did not have the list**
3 **of the inmates who had been deemed vulnerable to**
4 **COVID-19?**

5 MR. OESTERICHER: Objection.

6 A. I don't recall seeing that list.

7 Q. **Were there any special measures**
8 **taken to protect these vulnerable inmates?**

9 A. It's my recollection that the
10 inmates were housed in a unit together. I believe
11 it was 11 South.

12 Q. **Your understanding is that the**
13 **vulnerable inmates were placed in 11 South?**

14 A. That's my recollection, prior to my
15 arrival.

16 Q. **That's before you became warden?**

17 A. Yes.

18 Q. **Do you know if everyone on the list**
19 **that you haven't seen was placed in 11 South?**

20 MR. OESTERICHER: Objection.

21 A. Since that was done prior to my
22 arrival, I can't answer that.

23 Q. **By the time you arrived at the MCC,**
24 **had the Bureau of Prisons issued any guidance on**
25 **home confinement in light of COVID-19?**

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1 A. Yes.

2 Q. How about the Attorney General of
3 the United States?

4 A. Yes.

5 Q. Did you understand that home
6 confinement guidance to apply to the MCC?

7 A. Yes.

8 Q. Did you understand that guidance to
9 be recommending immediate and increased use of
10 home confinement?

11 A. For eligible inmates meeting the
12 criteria, yes.

13 Q. And prioritizing those that were at
14 high risk?

15 A. Among other considerations, yes.

16 Q. Did that guidance say that it should
17 be implemented as quickly as possible?

18 MR. OESTERICHER: Objection.

19 A. Yes.

20 Q. Are you familiar with the Attorney
21 General's April 3rd memo on this subject?

22 A. Yes.

23 Q. Did that memo expand the population
24 of inmates eligible for home confinement?

25 A. Yes.

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1 A. That's right. This e-mail was sent
2 while I was still TDY there. There's no date that
3 I can see on this e-mail or memo but it was sent
4 while I was still there.

5 **Q. I agree there is no date. That's**
6 **how it was produced to us unfortunately. You do**
7 **agree that the policy did not go into effect until**
8 **April 26th, 2020; is that right?**

9 MR. OESTERICHER: Objection.

10 A. There were reviews being done prior
11 to this -- prior to the unit staff being returned
12 to their normal duties. As I said, there were
13 already unit staff that had been returned to their
14 normal duties prior to April 26th. This was
15 notification that all remaining staff were going
16 to be returned to their normal duties.

17 **Q. And that was going to take effect on**
18 **April 26th, is that correct, all units being**
19 **returned to their normal duties?**

20 A. All those that had not already done
21 so.

22 **Q. And how many had been already**
23 **returned to their normal duties?**

24 A. I believe it was probably seven or
25 eight.

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1 **Q. Out of how many?**

2 A. I believe the total was 15.

3 MR. SPRAGUE: I'd like to mark this
4 next Exhibit as 11. It can be found in the
5 zip drive I sent you.

6 THE WITNESS: I see it.

7 (Petitioner's Exhibit 11, document
8 titled North East Region COVID-19 Reporting
9 Date, marked for identification.)

10 **Q. Do you recognize this document?**

11 A. Yes.

12 **Q. What is it?**

13 A. It's a report from the human
14 resources department to the emergency operation
15 center in the northeast which describes our
16 staffing, and it was sent daily.

17 **Q. What does "Staff on TDY status,"**
18 **represent under NYM 35?**

19 A. Those are staff that are on loan so
20 to speak from other bureau facilities to assist at
21 New York while on temporary duty.

22 **Q. So there were 35 staff members at**
23 **the MCC on temporary duty. Do I understand**
24 **correctly?**

25 A. That sounds right.

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1 institution, and in particular, the unit staff.

2 Q. **Were you concerned that having unit**
3 **staff dedicated towards custody would impede your**
4 **ability to implement the Attorney General's**
5 **guidance?**

6 A. Yes, and that's why I set that in
7 motion, and it's important to also understand that
8 there was another effort underway at MCC to ensure
9 that inmates were receiving legal calls and court
10 conference calls, so I also needed staff for that
11 effort as well.

12 Q. **How many release recommendations**
13 **were sent to you for your review during your time**
14 **as acting warden?**

15 A. I don't recall.

16 Q. **Do you recall any?**

17 A. I do recall some. I don't recall
18 the number.

19 Q. **How many home confinement**
20 **recommendations did you send to the to BOP's**
21 **Regional Office For Residential Reentry Management**
22 **while you were the acting warden of the MCC?**

23 A. For approval?

24 Q. **Yes.**

25 A. I don't recall sending any for

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1 approval.

2 Q. So from April 9th to April 24th, no
3 home confinement recommendations were sent to the
4 regional RRM?

5 A. Not that I recall.

6 Q. How many people were released to
7 home confinement during your time as acting warden
8 at the MCC?

9 A. I don't recall that number.

10 Q. Do you recall anyone being released
11 on a home confinement while you were the acting
12 warden at the MCC?

13 A. I don't recall.

14 Q. So no?

15 A. I'm sorry?

16 MR. OESTERICHER: Objection.

17 Q. You do not recall anyone being
18 released to home confinement while you were the
19 acting warden of the MCC?

20 MR. OESTERICHER: Objection.

21 A. I don't recall.

22 Q. You don't recall if any were or you
23 can't recall whether they were or not? I'm just
24 trying --

25 A. I don't recall whether they were or

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1 **compassionate release could be sent to a court**
2 **without written approval of the warden; is that**
3 **correct?**

4 A. Right, that's right.

5 Q. **Did you review any requests for a**
6 **compassionate release during your time as acting**
7 **warden?**

8 A. I don't recall any.

9 Q. **During your time as acting warden,**
10 **did you recommend any people for compassionate**
11 **release?**

12 A. I do not recall doing so.

13 Q. **During your time as the acting**
14 **warden of the MCC, did the MCC have a policy on**
15 **furloughs?**

16 A. Only that which was in place already
17 for the Bureau of Prisons. It was a set of
18 criteria and policy that's utilized. There was
19 also the memo that came out in April which talked
20 about some additional considerations for
21 furloughs.

22 Q. **Was the furlough policy amended in**
23 **any way to account for the COVID-19 pandemic?**

24 MR. OESTERICHER: Objection.

25 A. There was a memo that came out in